



TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION

DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, D.C. 20224

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Contact Person:

Identification Number:

Telephone Number:

UIL Code:

501.03-11

509.03-00

170.07-03

170.07-06

Employer Identification Number:

Legend:

A =

B =

C =

D =

E =

X =

Dear _____ :

This is in reply to the ruling request submitted by your authorized representative concerning the proposed reorganization between A, B and C.

Facts

A was incorporated in X as a non-member nonprofit corporation under the laws of the State of E. A has been recognized as an organization described in section 501(c)(3) of the Internal Revenue Code and as a supporting organization classified under section 509(a)(3). A provides management, consolidated administration, data processing services, budgeting, accounting, and administrative services to B and C. A also provides marketing services for all of A's related entities. A charges administrative fees for those services at cost, which will not exceed the market rate for such services. A is managed by its Board of Directors ("Board"). A will only manage related organizations that it will fully control through its Board.

B was incorporated as a member nonprofit corporation under the laws of the State of E. B has been recognized as an organization described in section 501(c)(3) of the Code and as a hospital classified under sections 509(a)(1) and 170(b)(1)(A)(iii). B provides specialized healthcare in the areas of rehabilitation, arthritis treatment, and specialized psychiatric care both for geriatric patients and for children and adolescents. B also provides hospice and home

health care services for patients in the community. B is managed by its Board of Trustees ("Board"). A's membership is composed of its Board.

C was incorporated as a non-member nonprofit corporation under the laws of the State of E. C has been recognized as an organization described in section 501(c)(3) of the Code and as a supporting organization under section 509(a)(3). C raises funds for B and is controlled by B. C is managed by its Board of Directors ("Board").

Over the past year, A, B, and C have reviewed their structures and interactions. Recent events in the exempt organization sector prompted an examination of the way that governance of these organizations should be conducted. The examination particularly focused on the inefficient current organizational structure and methods for B to enable it to better fulfill its charitable (i.e., health care) purpose. Therefore, the organizations propose to reorganize as described below ("Reorganization"):

A will function as the sole member of B, and will control B and C, as well as any additional entities that may be added to this group of related organizations in the future. A will elect the members of the Boards of B and C, and A will always have the right to appoint a majority of the members of the Board of all of A's subsidiaries. B's articles of incorporation ("Articles") will be restated to change its name to D, and to provide:

1. A will be the sole member of B;
2. A will elect all the Board members of B;
3. B's Board will always be composed of a majority of members from A; and
4. A must approve any amendments to B's Articles and bylaws before they can become effective.

C's Articles and bylaws will be restated in the same manner to provide for the same control relationship by A.

B will provide the initial operating capital to A. The costs incurred by A in providing services to B and C will be allocated to B and C based upon each entity's relative budgets, in order to provide a proper matching of revenue and expenses. There will be no profit involved in the allocation of those costs; which will primarily consist of wages and benefits. After the Reorganization, B and C will continue to have the same purposes and to conduct the same activities as before the Reorganization.

The organizations anticipate several benefits from the Reorganization. These include ease of managing the existing members of the group of related organizations, and cost savings via a more efficient system, which will also slow the increase in community healthcare costs. The Reorganization will also facilitate the expansion of programs and services through additional entities which may be added in the future. The long range plan of B is to add lines of services that will expand the types of care it can offer to its patients and to the community.

Rulings Requested

1. Following the Reorganization, C will continue to qualify as an organization described in section 501(c)(3) of the Code.

2. Following the Reorganization, C will continue to be classified as a supporting organization under section 509(a)(3) of the Code.

3. Following the Reorganization, contributions from the public to C will continue to be deductible under section 170 of the Code.

Law

Section 170(b)(1)(A)(iii) of the Code describes an organization, the principal purpose or functions of which, are the providing of medical or hospital care or medical education or medical research, if the organization is a hospital.

Section 501(c)(3) of the Code recognizes as exempt from federal income tax entities that are organized and operated exclusively for charitable purposes, no part of the net earnings of which inure to the benefit of any private shareholder or individual.

Section 509(a)(3)(B) of the Code provides that the term "private foundation" does not include an organization which is operated, supervised or controlled in connection with one or more organizations described in section 509(a)(1) or (2) of the Code.

Section 509(a)(3)(C) of the Code provides that a section 509(a)(3) organization must not be controlled directly or indirectly by one or more disqualified persons, as defined in section 4946 (other than foundation managers or organizations described in sections 509(a)(1) or 509(a)(2)).

Section 1.509(a)-4(h)(1) of the Income Tax Regulations states that a supporting organization meets the "supervised or controlled in connection with" test if there is "common supervision or control by the persons supervising or controlling both the supporting organization and the publicly supported organizations to ensure that the supporting organization will be responsive to the needs and requirements of the publicly supported organizations." In order to meet this requirement, the control or management of the supporting organization must be vested in the same persons who control or manage the publicly supported organizations.

Analysis

1. C will continue to operate as a fundraiser for B after the Reorganization. The purposes, activities and sources of revenue of C after the Reorganization will remain the same as before the Reorganization. Therefore, the Reorganization will not adversely impact the current tax-exempt status of C under section 501(c)(3) of the Code.

2. A's control of C will require that the majority of the Board of C will be composed of persons who are also on the Board of A. The structure of these Boards will satisfy the rule that at least a majority of the persons who control or manage a supporting organization will have the requisite commonality with persons performing the same functions for each publicly supported organization supported or benefited. This will enable A to satisfy the "supervised or controlled in connection with" test of section 1.509(a)-4(h)(1) of the regulations with respect to C. Further, C will not be controlled, directly or indirectly, by a disqualified person, as defined in section 4946 of

the Code. Therefore, the Reorganization will not adversely impact the current classification of C as a supporting organization described in section 509(a)(3)(B) of the Code.

3. C will continue to operate as a fundraiser for B after the Reorganization. The purposes, activities and sources of revenue of C after the Reorganization will remain the same as before the Reorganization. In addition, C will continue to be described in section 501(c)(3) of the Code. Therefore, contributions from the public to C will continue to be deductible under section 170.

Rulings

1. Following the Reorganization, C will continue to qualify as an organization described in section 501(c)(3) of the Code.

2. Following the Reorganization, C will continue to be classified as a supporting organization under section 509(a)(3) of the Code.

3. Following the Reorganization, contributions from the public to C will continue to be deductible under section 170 of the Code.

This ruling is based on the understanding there will be no material changes in the facts upon which it is based.

This ruling does not address the applicability of any section of the Code or regulations to the facts submitted other than with respect to the sections described.

This ruling is directed only to the organization that requested it. Section 6110(k)(3) of the Code provides it may not be used or cited by others as precedent.

This ruling will be made available for public inspection under section 6110 of the Code after certain deletions of identifying information are made. For details, see enclosed Notice 437, *Notice of Intention to Disclose*. A copy of this ruling with deletions that we intend to make available for public inspection is attached to Notice 437. If you disagree with our proposed deletions, you should follow the instructions in Notice 437.

If you have any questions about this ruling, please contact the person whose name and telephone number are shown in the heading of this letter.

In accordance with the Power of Attorney currently on file with the Internal Revenue Service, we are sending a copy of this letter to your authorized representative.

Sincerely,

Steven B. Grodnitzky
Manager
Exempt Organizations
Technical Group